IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5664 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

CHHANALAL RAMJIBHAI NAI

Appearance:

MR HS MUNSHAW for Petitioner

MR PH PATHAK for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 16/02/2000

ORAL JUDGEMENT

1. Rule. Mr. P.H.Pathak, learned counsel waives service of rule. On a joint request of learned counsel for the respective parties, the matter is taken up for

final hearing today.

2. The present petition has been filed by the Gujarat State Road transport Corporation, which is the employer in respect of the respondent - employee, who was engaged as a helper. It appears that the said employee was absent without authorised leave for about 5.1/2 months from 2nd February 1993 to 16th July 1993, and consequentially, a domestic inquiry was held against him, that he was found guilty of unauthorised absence, and the disciplinary authority therefore imposed a punishment of dismissal from service.

The respondent - employee thereupon approached the Labour Court, Kalol by way of a Reference [LCK] No. 116/94, wherein the Labour Court directed reinstatement with full backwages.

The petitioner - employer thereupon filed Miscellaneous Application No. 80/98 before the Labour Court for restoration of the said Reference under rule 26[A] of the Industrial Disputes [Gujarat] Rules. Since this Miscellaneous Application was filed beyond the period of limitation, the same also sought condonation of delay.

The Labour Court, after examining the facts and circumstances of the case, rejected the condonation application, thereby effectively rejecting the restoration application, and indirectly confirming the judgement and award passed in the main reference.

3. It is the rejection of the condonation application on part of the Labour Court, which is the subject matter of the present petition.

4. I have heard the learned counsel for the respective parties extensively, perused the judgement and order, both as regards the impugned judgement and order, as also the judgement and award passed in the main reference. I have also referred to such documentary evidence on record to which my attention has been drawn.

5. As a result of the hearing and the discussion, a consensus has been arrived at between the learned counsel to the effect that the respective parties are prepared to accept a decision of this Court on the question of punishment which may be imposed on the respondent workman, without entering into the merits of condonation application and / or the restoration application. Learned counsel for the respective parties further agree

that the question of appropriate punishment is left entirely to this Court.

6. On the facts and circumstances of the case, I am of the view that interest of justice would be met by substituting the judgement and award of the Labour Court in Reference [LCK] No.116/94, by directing that the respondent - employee shall be entitled to reinstatement with 60% backwages. It is accordingly so directed. The judgement and award of the Labour Court in the aforesaid reference shall stand modified accordingly.

7. This petition is disposed of accordingly. Rule is made absolute to the aforesaid extent. Ad interim relief stands vacated.

It is expected that the petitioner - corporation will make necessary payment to the respondent - employee as expeditiously as possible, and preferably within three months from today.

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